

**TOWN COUNCIL**

May 15, 2019

TO: Matthew W. Hart, Town Manager

FROM: Essie S. Labrot, Town Clerk/Council Clerk

*Essie S. Labrot*

The Town Council at its meeting held on May 14, 2019 tabled the Ordinance Permitting Cottage Food Operations in Residence Districts to June 11, 2019 Town Council Meeting..

Attachment: Ordinance

cc: Pat Alair, Corporation Counsel  
Gina Varano, Assistant Corporation Counsel  
Theresa Freeman, Legal Administrative Assistant  
Mark McGovern, Director of Community Services  
Todd Dumais, Town Planner  
Catherine Dorau, Associate Planner  
Kevin Ahern, Chair, Town Plan & Zoning Commission  
Brian Pudlik, Zoning Enforcement Officer



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**ORDINANCE PERMITTING**  
**COTTAGE FOOD OPERATIONS IN RESIDENCE DISTRICTS**

**WHEREAS**, The Connecticut General Assembly recently adopted Public Act 18-141 which allows individuals to make, package and store a limited number of food products in their home kitchen for sale directly to the consumer; and

**WHEREAS**, Public Act 18-141 requires all cottage food operations to be licensed annually by the Commissioner of Consumer Protection and to comply with all applicable municipal laws and zoning ordinances; and

**WHEREAS**, the Town of West Hartford zoning regulations currently prohibit cottage food operations in residence districts; and

**WHEREAS**, this amendment will afford individuals an opportunity to sell certain homemade food products locally; and

**WHEREAS**, this amendment could potentially pave the way for entrepreneurs in the food industry to start a business with little overhead and to allow their primary focus to be making a quality product and building brand recognition, all without the need to find affordable commercial kitchen space, which is scarce in the Town of West Hartford; and

**WHEREAS**, the Town of West Hartford desires to promote economic development through the encouragement of entrepreneurs where possible:

**NOW THEREFORE BE IT ORDAINED BY THE TOWN COUNCIL OF WEST HARTFORD THAT:**

Section One: Section 177-2(B) of the West Hartford Code of Ordinances is hereby amended by the addition of the following definition:

**COTTAGE FOOD OPERATION**

Any person who produces cottage food products only in the home kitchen of such person's private residential dwelling and only for sale directly to the consumer and who does not operate as a food service establishment pursuant to C.G.S. §19a-36 or regulations adopted pursuant to C.G.S. §21a-101, or a food retailer, distributor or manufacturer as defined in subsection (b) of C.G.S. §21a-92 and §21a-151.

Section Two: Section 177-49(C)(4) of the West Hartford Code of Ordinances is hereby amended as follows:

C. Special exceptions.

(1) The Zoning Board of Appeals may in its discretion grant the following special exceptions, subject to making the required findings specified in Subsection C(2) below:

(a) In any residence district, a home occupation when conducted in the dwelling unit by the person who occupies the dwelling unit as his or her principal residence. The special

exception shall be granted to such person and shall not be considered as a right vested in the premises. The home occupation shall conform to the following performance standards

[1] Not more than two nonresident employees are permitted on the premises at one time. The Zoning Board of Appeals may in its discretion require as a condition of approval that only one nonresident employee is permitted at one time if it finds, after hearing, that the size or intensity of the proposed use with two employees will not meet the criteria in § 177-49C(2), as amended. For purposes of this subsection, the term "employee" shall mean any nonresident person involved in the home occupation in any way and shall include, but not be limited to, a secretary, receptionist, professional person and or partner.

[2] No more than 1/3 of the total finished floor area of the dwelling unit shall be used in connection with the home occupation.

[3] The character of the dwelling unit shall not change nor shall there be any exterior evidence of such secondary use. A sign not to exceed one square foot may be permitted by the Zoning Board of Appeals pursuant to § 177-33E(2).

[4] No more than one home occupation shall be permitted per dwelling unit, except that more than one home occupation may be permitted if and only if the additional home occupation(s) is/are of the type described in Subsection C(4).

[5] The keeping of stock-in-trade or the sale, rental or holding for sale or redelivery of any merchandise, goods, products or equipment, including but not limited to food, is not permitted.

[6] There shall be no services rendered that require receipt or delivery of merchandise, goods, products or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed for residential deliveries. Infrequent deliveries by commercial vehicles of furniture, fixtures or equipment for use in the home occupation shall be permitted.

[7] The proposed home occupation requires specialized knowledge derived from long and intensive academic preparation or work that is original and creative in character, the result of which depends primarily on the employees' invention, imagination or talent. This requirement includes, but is not limited to, the following occupations: physician; dentist; lawyer; engineer; architect; teacher, provided that instruction shall be limited to a single pupil at a time; dressmaker; tailor; and milliner. This requirement excludes, among other occupations, the following occupations: beauticians, barbers, real estate offices and insurance agencies.

(2) No special exception shall be granted unless the Zoning Board of Appeals shall find that:

(a) The location and size of the use, the nature and intensity of the operations connected with it, the size of the lot in relation to it and the location of the lot with respect to streets giving access to it are such that it will be in harmony with the neighborhood in which it is

located, the use will not hinder or discourage the residential use of adjacent residential properties or adversely affect the residential character of adjacent properties and that traffic on the adjacent streets will not be unduly impeded.

(b) The parking is adequate and properly located and that the entrance and exit driveways are laid out so as to achieve maximum safety

(3) The records of the Zoning Board of Appeals shall include the reasons for these findings above to be made before a special exception may be granted. The Zoning Board of Appeals shall attach such conditions and safeguards and shall have inspection rights as are necessary to ensure continued compliance with the terms of the special exception.

(4) A special exception approval, pursuant to the provisions of this § 177-49, as amended, shall not be required for a person to conduct a home occupation in the dwelling unit which such person occupies as his or her principal residence, provided that there are no nonresident employees; there are no visits to the subject dwelling or unit by clients and or customers, there is/are no sign(s); and the home occupation otherwise complies with the requirements of § 177-49C(1)(a)(2) through (6), as amended, except that a cottage food operation licensed through the State Department of Consumer Protection shall be exempt from 177-49C(1)(a)(5).

Notwithstanding the provisions of this Subsection C(4) of § 177-49, if the Zoning Enforcement Officer determines that the proposed use may violate the provisions of § 177-49C(2), he or she shall notify the applicant of such determination and require the applicant to file an application for a special exception with the Zoning Board of Appeals. All persons desiring to conduct a home occupation under this § 177-49C(4) shall be required, prior to conducting such home occupation, to obtain a one-time zoning permit from the Zoning Enforcement Officer of the Town of West Hartford and pay the necessary fees established therefor. Said permit shall be subject to renewal or amendment only if there is a substantial change in the nature or level of activity being performed pursuant thereto.

(5) Any home occupation approved prior to the effective date of these amendments shall not be invalidated by these amendments and shall be reviewed for a determination of renewal in accordance with the standards applicable at the time of the original approval; provided, however, that an applicant for renewal may, at his or her discretion, choose to be reviewed in accordance with the standards of this Subsection C.